



June 12, 2024

BY ECF

Hon. Jennifer H. Rearden
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Burton, et al v. Bussanich, et al.*, 18 CV 2039 (JLR)(SDA)

Your Honor:

I am co-counsel for Plaintiffs in this medical malpractice and wrongful death action brought against the United States under the Federal Tort Claims Act, and against certain individuals employed by the Bureau of Prisons (the “BOP”) under Bivens. This action arises from the death of Franklin Sanchez, a Colombian citizen who died in BOP custody after being extradited to the United States.

I write pursuant to section 3.C. of Your Honor’s Individual Rules of Practice to respectfully request a conference in advance of Plaintiff’s motion to compel the Defendants to produce (1) the names of each of the three 30(b)(6) witnesses the Defendants have agreed to produce for depositions on June 24, 2024, June 25th, and July 10th and which witness will be produced on which day; (2) their resumes; (3) the documents identified for production in the 30(b)(6) notice, served on March 28, 2024, a copy of which is attached; and (4) the name of a fourth 30(b)(6) witness designated to discuss the government’s policies, procedures, guidelines, directives, manuals, or other writings including without limitation, institutional orders, setting forth procedures related to e-mail messages sent through the Corrlinks platform, including retention policies upon the death of an inmate. This fourth item goes to a potential spoliation issue since Defendants appear to have not preserved Mr. Sanchez’s communications on these systems. Plaintiff’s requested this final item in our May 31st emails to Mr. Cowart, since the Defendants’ possible spoliation just became apparent.

Defendants have not lodged any objections to items 1-4. On May 31, 2024, I emailed defense counsel Brandon Cowart asking him to produce this information by June 7th, or provide a date and time when he is able to meet and confer on June 11th or June 12th in advance of Plaintiff’s motion to compel.

On June 7, Mr. Cowart responded and stated that he is “on leave, returning to the office on Monday” and would “follow up [] on Monday.” However, Mr. Cowart has not been in contact with us regarding these items of discovery.



We require items 1-3 no later than Friday of this week to adequately prepare for the upcoming 30(b)(6) depositions. Without these materials, we cannot adequately prepare for these integral depositions. The government has been unresponsive to our efforts to obtain this information, to which they have lodged no objections. Without timely receipt of this information, we will be forced to engage in further motion practice for yet another discovery extension and/or sanctions.

We thank the Court for its consideration of these matters.

Respectfully submitted,

/s/ Jessica Massimi

Jessica Massimi